AIMEDALLIANCE

June 3, 2025

Via Electronic Correspondence

Governor Lombardo
State Capitol Building
101 N. Carson Street
Carson City, NV 89701

RE: Letter in Opposition to AB 259, Which Would Set Maximum Fair Prices for Selected Drugs

Dear Governor Lombardo:

Aimed Alliance is a not-for-profit health policy organization that seeks to protect and enhance the rights of healthcare consumers and providers. We are writing to provide comment on Assembly Bill 259, which proposes to cap health plan reimbursement at the Maximum Fair Price (MFP) established through Medicare's Center for Medicare and Medicaid Services' (CMS) Inflation Reduction Act (IRA) negotiations. We respectfully urge you to veto this bill and instead support alternative legislative approaches that more effectively reduce prescription drug costs for consumers without compromising access to medically-necessary treatments.

I. MFP Reimbursement Caps Lack Guaranteed Consumer Savings

While we share the goal of making prescription drugs more affordable for patients, we believe A.B. 259 takes an approach that is ultimately ineffective at lowering costs and could lead to harmful unintended consequences. By tying health plan reimbursement to the MFP, the bill empowers Nevada insurance regulators to impose price controls, effectively functioning like upper payment limits (UPLs), on select prescription drugs.

These reimbursement caps, like UPLs, are implemented without any requirement that the resulting savings be passed on to consumers. Without clear provisions ensuring that cost savings are passed down, there is no guarantee that consumers will see reduced out-of-pocket costs at the pharmacy counter. Thus, capping prices at the MFP would not guarantee savings for patients and could instead increase barriers to medically necessary treatment as formularies may prioritize higher-rebated drugs over MFP costs. Moreover, reimbursement caps can incentivize insurers to restrict access to certain drugs by removing them from formularies or placing them on higher cost-sharing tiers, creating new barriers to care.

Research has also shown that UPLs may increase patient access and affordability challenges. For example, a recent study published by *Avalere* found that health plan representatives anticipate greater implementation of utilization management tactics, such as step therapy and prior authorization, in response to UPLs being set on certain prescription drugs.[1] Plan representatives also anticipate adjustments to formularies, such as reassigning selected drugs and therapeutic alternatives to different tiers.[2] Specifically, drugs with price caps, like UPLs or MFPs, may be moved to higher cost-sharing tiers if the lower prices reduce the rebates that health plans and pharmacy benefit managers (PBMs) usually

[1] Kate Sikora, et al., *Research Explores Health Plan Perceptions of PDABs and UPLs*, AVALERE (April 2, 2024), https://avalere.com/insights/research-explores-health-plan-perceptions-of-pdabs-and-upls.
[2] *Id*.

get. At the same time, drugs without price caps that offer better rebates may be moved to lower tiers to encourage their use. These formulary shifts could result in increased costs for patients and hinder patients' access to essential medications, underscoring the need to use caution and explore alternative approaches to enhance prescription drug affordability.

Given the uncertainty regarding whether these MFPs will effectively lower costs for consumers, Aimed Alliance urges your Office to veto this bill, and encourage the Nevada legislature to consider alternative solutions for reducing consumers' out-of-pocket expenses, such as copay accumulator bans and PBM reform.

A. Copay Accumulator Ban

Individuals with commercial insurance are often required to pay a copay to access their prescription drugs. When patients cannot afford their copays, they often turn to financial assistance from pharmaceutical manufacturers or other third parties to help cover their cost-sharing obligations and obtain their medications.[3] Typically, this assistance is applied toward the patient's deductible or maximum out-of-pocket limit, unless the health plan has implemented a copay accumulator program.

Copay accumulator programs exclude the value of financial assistance distributed by third parties from counting toward the health plan's deductible or maximum out-of-pocket limit, resulting in consumers unnecessarily paying thousands of dollars extra to fulfill their annual cost-sharing requirements.[4] This sudden financial strain can cause heightened anxiety and stress, and may force patients to switch or stop taking their treatment because they cannot afford their out-of-pocket costs once their financial assistance has been exhausted. As a result, patients may experience disease progression, relapse, and other adverse health events, ultimately resulting in increased healthcare utilization.[5] Moreover, if a consumer switches health plans mid-year after depleting their copay assistance under their previous plan, they cannot rely on assistance under the new plan for the remainder of the year.[6]

Recognizing the harms of copay accumulators, many states have enacted legislation to prohibit these practices. As of May 2025, 21 states and the District of Columbia require health plans and pharmacy benefit managers to count copay assistance toward an individual's deductible and annual cost-sharing obligations.[7] These laws help ensure that patients can afford essential medications and adhere to their prescribed treatment plans without undue financial burden. While Nevada has not passed a copay accumulator ban, the Insurance Commissioner is enforcing the 2020 NBPP in state-regulated plans, which prohibits the use of copay accumulators unless it is used for a brand name medication that has a

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[3] Aimed Alliance, *Copay Accumulator 101*, https://aimedalliance.org/copay-accumulator-101/#:~:text=Copay%20Accumulator%20101-,Copay%20Accumulator%20101,responsibilities%20and%20fill%20their%20prescriptions.
[4] American Cancer Society, Cancer Action Network, *All Copays Count,* https://www.fightcancer.org/all-copays-count.
[5] *Id*.
[6] Aimed Alliance, *supra* note 3.
[7] National Conference of State Legislatures, *Copayment Adjustment Programs* (Dec. 10, 2024), https://www.ncsl.org/health/copayment-adjustment-programs#:~:text=As%20of%202024%2C%20laws%20in,%2Dpocket%20cost%2Dsharing%20requirement.

medically appropriate generic alternative available.[8] Aimed Alliance applauds the Nevada Insurance Commissioner for his efforts to enforce current law and directly address consumers' prescription drug affordability, Moreover, we urge the state legislature to pass a copay accumulator ban to permanently codify these important affordability protections, as this is a more effective solution to directly protect consumers from excessive out-of-pocket costs.

B. PBM Reform

PBMs are middlemen who negotiate with pharmaceutical manufacturers to determine which medicines will be included in health insurance companies' formularies and how much plans will pay the manufacturers for those medicines. PBMs also determine consumers' cost-sharing requirements for medications.[9] These practices are often opaque and lack transparency, which results in payors negotiating payments without a full understanding of the actual cost of the medications. Consequently, regulating PBM activities presents an opportunity to address key factors that impact costs within health insurance.

Other states have begun to recognize the need to regulate PBMs and ensure greater transparency in their practices. For instance, in 2023, Colorado enacted legislation that banned spread pricing, a practice where PBMs negotiate lower drug prices but charge higher rates to policyholders. By eliminating spread pricing alone, affected employers are predicted to save an average of 10-25 percent on their prescription drug costs.[10] PBM reform may also include legislation that requires PBMs to pass rebates directly to employers and consumers to ensure savings are maximized on behalf of consumers.

While Nevada has taken important steps to regulate PBM by prohibiting gag clauses and imposing reporting requirements, Aimed Alliance urges Nevada to continue to protect consumers by passing legislation to mandate PBM licensure, require PBMs to establish reimbursement requirements, prohibit spread pricing, and impose rebate pass-through requirements. Ultimately, enhancing consumer protections will foster a more transparent and equitable healthcare system that ensures that cost savings benefit consumers.

II. Conclusion

In conclusion, we respectfully urge you to veto A.B. 259 and instead support legislative alternatives, such as a copay accumulator ban and PBM reform, which can have a direct impact on consumer affordability. Please contact us at policy@aimedalliance.org if you have any questions or would like to further discuss our concerns.

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[8] Aimed Alliance, *ADVOCACY WIN: Nevada Insurance Commissioner to Enforce 2020 NBPP and Address Non-EHB Designation,* https://aimedalliance.org/aimed-alliance-advocacy-win-nevada-insurance-commissioner-to-enforce-2020-nbpp-and-address-non-ehb-designation/.

[9] The House Committee on Oversight and Reform, *A View from Congress: Role of Pharmacy Benefit Managers in Pharmaceutical Markets* (Dec. 10, 2021), https://oversight.house.gov/wp-content/uploads/2021/12/PBM-Report-12102021.pdf.

[10] Colorado Department of Health Care Policy & Financing, *Gov. Polis Signs Legislation to Save Coloradans Money on Prescription Drug Costs* (May 10, 2023), https://hcpf.colorado.gov/legislation-save-coloradans-money-on-prescription-drug-costs#:~:text=Jared%20Polis%20signed%20HB23%2D1201,this%20affordability%20law%20as%20well.

Sincerely,

Olivia Backhaus
Staff Attorney